

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-04-3738.M5

MDR Tracking Number: M5-04-0676-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 11-03-03. The items in dispute for fee issues for dates of service 11-29-03 codes 95900-27, 95904-27 and 95935-27 were withdrawn on 02-06-04 by ____.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits, myofascial release, gait training, therapeutic activities, therapeutic exercises, required reports, short-latency somatosensory evoked study and ROM measurements were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 10th day of February.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 11-21-02 through 07-11-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 10th day of February 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

Amended Letter
Note: Decision

January 28, 2004

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
7551 Metro Center Drive, Suite 100, MS 48
Austin, TX 78744-1609

RE: MDR Tracking #: M5-04-0676-01
IRO Certificate #: IRO4326

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ___'s health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This patient sustained an injury to her right ankle on ___ when she tripped over a guardrail and smashed her right ankle into a pallet. She saw a chiropractor for treatment and therapy. The patient later underwent a repair of the anterior talofibular ligament with arthrocentesis and plantar fasciotomy on 01/09/03.

Requested Service(s)

Office visit, myofascial release, gait training, therapeutic activities, therapeutic exercises, required reports, short-latency somatosensory evoked study, and range of motion (ROM) measurements from 11/21/02 through 07/11/03

Decision

It is determined that the office visit, myofascial release, gait training, therapeutic activities, therapeutic exercises, required reports, short-latency somatosensory evoked study, and range of motion (ROM) measurements from 11/21/02 through 07/11/03 were medically necessary to treat this patient's condition.

Rationale/Basis for Decision

This patient had appropriate diagnostic testing which confirmed her injury. The range of motion (ROM) testing was needed to monitor the progress of her therapy program. After surgery, the ROM testing was utilized as a baseline and further documented her response to treatment. Electrodiagnostic testing was appropriate to address the continued right ankle pain, numbness, and tingling that was present and to rule out radiculopathy.

She was referred to a specialist who confirmed the need for continuing therapy and felt she needed surgical intervention. He wanted pre-surgical therapy in order for the patient to be in the best physical condition prior to surgery, which was performed on 01/09/03. Follow up visits to the surgeon revealed the patient was progressing and recommendation of continued therapy in the form of gait training and general conditioning was made. She was seen by a designated doctor who stated she was not at maximum medical improvement (MMI). He recommended she undergo a secondary surgical opinion and projected she would reach MMI on or about 07/01/03. An attempt at work hardening was tried but was discontinued because of "too much pain". She was evaluated and placed at MMI on 07/18/03 with a 4% impairment rating. This date approximates what the first designated doctor projected.

Chiropractic guidelines allow for passive and active treatment of these types of injuries both pre and post surgical. There is sufficient documentation on each date of service to warrant the treatment that was rendered. The number of visits and diagnostic testing prior to surgical intervention was appropriate for this injury, as was after surgery. Therefore, it is determined that the office visit, myofascial release, gait training, therapeutic activities, therapeutic exercises, required reports, short-latency somatosensory evoked study, and range of motion (ROM) measurements from 11/21/02 through 07/11/03 were medically necessary.

Sincerely,